

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation Against: )**

**PHILLIP GILMORE WRIGHT, M.D. )**

**Physician's and Surgeon's )  
Certificate No. G 17389 )**

**Respondent )**

**Case No. 800-2016-024002**


**DECISION AND ORDER**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on February 8, 2019.**

**IT IS SO ORDERED: January 10, 2019.**

**MEDICAL BOARD OF CALIFORNIA**

  
**Kristina D. Lawson, J.D., Chair  
Panel B**

1 XAVIER BECERRA  
Attorney General of California  
2 MARY CAIN-SIMON  
Supervising Deputy Attorney General  
3 GREG W. CHAMBERS  
Deputy Attorney General  
4 State Bar No. 237509  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3382  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*  
7

8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **PHILLIP GILMORE WRIGHT, M.D.**  
14 **8060 Surrey lane**  
**Oakland, CA 94605**

15 **Physician's and Surgeon's Certificate No. G**  
16 **17389**

17 Respondent.

Case No. 800-2016-024002

OAH No. 2018081068

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
23 of California (Board). She brought this action solely in her official capacity and is represented in  
24 this matter by Xavier Becerra, Attorney General of the State of California, by Greg W. Chambers,  
25 Deputy Attorney General.

26 2. Respondent Phillip Gilmore Wright, M.D. (Respondent) is represented in this  
27 proceeding by attorney Robert F. Hahn, whose address is: 2550 Ninth Street, Suite 101  
28 Berkeley, CA 94710-2551

3. On or about September 24, 1969, the Board issued Physician's and Surgeon's Certificate No. G 17389 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-024002, and will expire on December 31, 2018, unless renewed.

## JURISDICTION

4. Accusation No. 800-2016-024002 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 10, 2017. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2016-024002 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-024002. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 800-2016-024002.

10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 17389 issued to Respondent is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. . EDUCATION COURSE. Within sixty (60) calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than forty (40) hours per year, for each year of probation. The educational program(s) or course(s) shall be

1 aimed at the supervision of mid-level practitioners and shall be Category I certified. The  
2 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to  
3 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the  
4 completion of each course, the Board or its designee may administer an examination to test  
5 Respondent's knowledge of the course. Respondent shall provide proof of attendance for sixty-  
6 five (65) hours of CME of which forty (40) hours were in satisfaction of this condition.

7 2. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within sixty (60) calendar  
8 days of the effective date of this Decision, Respondent shall enroll in a professionalism program,  
9 that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.  
10 Respondent shall participate in and successfully complete that program. Respondent shall  
11 provide any information and documents that the program may deem pertinent. Respondent shall  
12 successfully complete the classroom component of the program not later than six (6) months after  
13 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
14 time specified by the program, but no later than one (1) year after attending the classroom  
15 component. The professionalism program shall be at Respondent's expense and shall be in  
16 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

17 A professionalism program taken after the acts that gave rise to the charges in the  
18 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
19 or its designee, be accepted towards the fulfillment of this condition if the program would have  
20 been approved by the Board or its designee had the program been taken after the effective date of  
21 this Decision.

22 Respondent shall submit a certification of successful completion to the Board or its  
23 designee not later than fifteen (15) calendar days after successfully completing the program or not  
24 later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

25 3. MONITORING - PRACTICE/BILLING. Within thirty (30) calendar days of the  
26 effective date of this Decision, Respondent shall submit to the Board or its designee for prior  
27 approval as a practice monitor(s), the name and qualifications of one or more licensed physicians  
28 and surgeons whose licenses are valid and in good standing, and who are preferably American

1 Board of Medical Specialties (ABMS) certified. A monitor shall have no prior or current  
2 business or personal relationship with Respondent, or other relationship that could reasonably be  
3 expected to compromise the ability of the monitor to render fair and unbiased reports to the  
4 Board, including but not limited to any form of bartering, shall be in Respondent's field of  
5 practice, and must agree to serve as Respondent's monitor. Respondent shall pay all monitoring  
6 costs.

7 The Board or its designee shall provide the approved monitor with copies of the Decision(s)  
8 and Accusation(s), and a proposed monitoring plan. Within fifteen (15) calendar days of receipt  
9 of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a  
10 signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands  
11 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor  
12 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan  
13 with the signed statement for approval by the Board or its designee.

14 Within sixty (60) calendar days of the effective date of this Decision, and continuing  
15 throughout probation, Respondent's practice shall be monitored by the approved monitor.  
16 Respondent shall make all records available for immediate inspection and copying on the  
17 premises by the monitor at all times during business hours and shall retain the records for the  
18 entire term of probation.

19 If Respondent fails to obtain approval of a monitor within sixty (60) calendar days of the  
20 effective date of this Decision, Respondent shall receive a notification from the Board or its  
21 designee to cease the practice of medicine within three (3) calendar days after being so notified.  
22 Respondent shall cease the practice of medicine until a monitor is approved to provide monitoring  
23 responsibility.

24 The monitor(s) shall submit a quarterly written report to the Board or its designee which  
25 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
26 are within the standards of practice of medicine and whether Respondent is practicing medicine  
27 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure  
28 that the monitor submits the quarterly written reports to the Board or its designee within ten (10)

1 calendar days after the end of the preceding quarter.

2 If the monitor resigns or is no longer available, Respondent shall, within five (5) calendar  
3 days of such resignation or unavailability, submit to the Board or its designee, for prior approval,  
4 the name and qualifications of a replacement monitor who will be assuming that responsibility  
5 within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor  
6 within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent  
7 shall receive a notification from the Board or its designee to cease the practice of medicine within  
8 three (3) calendar days after being so notified. Respondent shall cease the practice of medicine  
9 until a replacement monitor is approved and assumes monitoring responsibility.

10 In lieu of a monitor, Respondent may participate in a professional enhancement program  
11 approved in advance by the Board or its designee that includes, at minimum, quarterly chart  
12 review, semi-annual practice assessment, and semi-annual review of professional growth and  
13 education. Respondent shall participate in the professional enhancement program at Respondent's  
14 expense during the term of probation.

15 4. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
16 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
17 Chief Executive Officer at every hospital where privileges or membership are extended to  
18 Respondent, at any other facility where Respondent engages in the practice of medicine,  
19 including all physician and locum tenens registries or other similar agencies, and to the Chief  
20 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
21 Respondent. Respondent shall submit proof of compliance to the Board or its designee within  
22 fifteen (15) calendar days.

23 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

24 5. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE  
25 NURSES. Respondent is prohibited from supervising physician assistants and advanced practice  
26 nurses for the first two (2) years of probation. After that time, Respondent may supervise  
27 physician assistants and advanced practice nurses. Respondent's practice monitor's quarterly  
28 reports to the Medical Board shall specifically address Respondent's supervision of physician

1 assistants and advanced practice nurses, and shall indicate whether Respondent is in compliance  
2 with the applicable standard of care.

3 6. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
4 governing the practice of medicine in California and remain in full compliance with any court  
5 ordered criminal probation, payments, and other orders.

6 7. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
7 under penalty of perjury on forms provided by the Board, stating whether there has been  
8 compliance with all the conditions of probation.

9 Respondent shall submit quarterly declarations not later than ten (10) calendar days after  
10 the end of the preceding quarter.

11 8. GENERAL PROBATION REQUIREMENTS.

12 Compliance with Probation Unit

13 Respondent shall comply with the Board's probation unit.

14 Address Changes

15 Respondent shall, at all times, keep the Board informed of Respondent's business and  
16 residence addresses, email address (if available), and telephone number. Changes of such  
17 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
18 circumstances shall a post office box serve as an address of record, except as allowed by Business  
19 and Professions Code section 2021(b).

20 Place of Practice

21 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
22 of residence, unless the patient resides in a skilled nursing facility or other similar licensed  
23 facility.

24 License Renewal

25 Respondent shall maintain a current and renewed California physician's and surgeon's  
26 license.

27 Travel or Residence Outside California

28 Respondent shall immediately inform the Board or its designee, in writing, of travel to any



1 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
2 (30) calendar days.

3 In the event Respondent should leave the State of California to reside or to practice,  
4 Respondent shall notify the Board or its designee in writing thirty (30) calendar days prior to the  
5 dates of departure and return.

6 9. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
7 available in person upon request for interviews either at Respondent's place of business or at the  
8 probation unit office, with or without prior notice throughout the term of probation.

9 10. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
10 its designee in writing within fifteen (15) calendar days of any periods of non-practice lasting  
11 more than thirty (30) calendar days and within fifteen (15) calendar days of Respondent's return  
12 to practice. Non-practice is defined as any period of time Respondent is not practicing medicine  
13 as defined in Business and Professions Code sections 2051 and 2052 for at least forty (40) hours  
14 in a calendar month in direct patient care, clinical activity or teaching, or other activity as  
15 approved by the Board. If Respondent resides in California and is considered to be in non-  
16 practice, Respondent shall comply with all terms and conditions of probation. All time spent in  
17 an intensive training program which has been approved by the Board or its designee shall not be  
18 considered non-practice and does not relieve Respondent from complying with all the terms and  
19 conditions of probation. Practicing medicine in another state of the United States or Federal  
20 jurisdiction while on probation with the medical licensing authority of that state or jurisdiction  
21 shall not be considered non-practice. A Board-ordered suspension of practice shall not be  
22 considered as a period of non-practice.

23 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
24 months, Respondent shall successfully complete the Federation of State Medical Board's Special  
25 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
26 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
27 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

28 Respondent's period of non-practice while on probation shall not exceed two (2) years.

1       Periods of non-practice will not apply to the reduction of the probationary term.

2       Periods of non-practice for a Respondent residing outside of California will relieve  
3 Respondent of the responsibility to comply with the probationary terms and conditions with the  
4 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
5 General Probation Requirements; and Quarterly Declarations.

6       11. COMPLETION OF PROBATION. Respondent shall comply with all financial  
7 obligations (e.g., restitution, probation costs) not later than one-hundred twenty (120) calendar  
8 days prior to the completion of probation. Upon successful completion of probation,  
9 Respondent's certificate shall be fully restored.

10       12. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
11 of probation is a violation of probation. If Respondent violates probation in any respect, the  
12 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
13 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
14 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
15 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
16 the matter is final.

17       13. LICENSE SURRENDER. Following the effective date of this Decision, if  
18 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
19 the terms and conditions of probation, Respondent may request to surrender his or her license.  
20 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
21 determining whether or not to grant the request, or to take any other action deemed appropriate  
22 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
23 shall within fifteen (15) calendar days deliver Respondent's wallet and wall certificate to the  
24 Board or its designee and Respondent shall no longer practice medicine. Respondent will no  
25 longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical  
26 license, the application shall be treated as a petition for reinstatement of a revoked certificate.

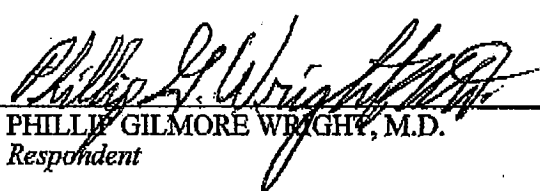
27       14. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
28 with probation monitoring each and every year of probation, as designated by the Board, which

1 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
2 California and delivered to the Board or its designee no later than January 31 of each calendar  
3 year.

4 ACCEPTANCE

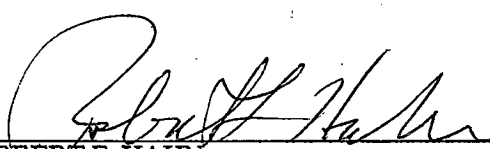
5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
6 discussed it with my attorney, Robert F. Hahn. I understand the stipulation and the effect it will  
7 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and  
8 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
9 Decision and Order of the Medical Board of California.

10  
11 DATED: 12-5-18

  
12 PHILLIP GILMORE WRIGHT, M.D.  
13 Respondent

14 I have read and fully discussed with Respondent Phillip Gilmore Wright, M.D. the terms  
15 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
16 Order. I approve its form and content.

17  
18 DATED: 12-5-18

  
19 ROBERT F. HAHN  
20 Attorney for Respondent

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///


ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 12/5/2018

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
MARY CAIN-SIMON  
Supervising Deputy Attorney General

  
GREG W. CHAMBERS  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Accusation No. 800-2016-024002**

XAVIER BECERRA  
Attorney General of California  
JANE ZACK SIMON  
Supervising Deputy Attorney General  
CAROLYNE EVANS  
Deputy Attorney General  
State Bar No. 289206  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 703-1211  
Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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MEDICAL BOARD OF CALIFORNIA  
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In the Matter of the Accusation Against:

Case No. 800-2016-024002

**Phillip Gilmore Wright, M.D.**  
8060 Surrey lane  
Oakland, CA 94605

**ACCUSATION**

**Physician's and Surgeon's Certificate**  
**No. G 17389,**

Respondent.

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about September 24, 1969, the Medical Board issued Physician's and Surgeon's Certificate Number G 17389 to Phillip Gilmore Wright, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2018, unless renewed.

## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states in pertinent part:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(d) Incompetence.

"(f) Any action or conduct which would have warranted the denial of a certificate.

"..."

6. Section 3501 of the Code states in pertinent part:

"(1) 'Board' means the Physician Assistant Board.

"..."

"(4) 'Physician assistant' means a person who meets the requirements of this chapter and is licensed by the board.

"(5) 'Supervising physician' means a physician and surgeon licensed by the Medical Board of California or by the Osteopathic Medical Board of California who supervises one or

1 more physician assistants, who possesses a current valid license to practice medicine, and who is  
2 not currently on disciplinary probation for improper use of a physician assistant.

3 “(6) ‘Supervision’ means that a licensed physician and surgeon oversees the activities  
4 of, and accepts responsibility for, the medical services rendered by a physician assistant.

5 “(7) ‘Regulations’ means the rules and regulations as set forth in Chapter 13.8  
6 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations.

7 “...

8 “(10) ‘Delegation of services agreement’ means the writing that delegates to a  
9 physician assistant from a supervising physician the medical services the physician assistant is  
10 authorized to perform consistent with subdivision (a) of Section 1399.540 of Title 16 of the  
11 California Code of Regulations.

12 “(11) ‘Other specified medical services’ means tests or examinations performed or  
13 ordered by a physician assistant practicing in compliance with this chapter or regulations of the  
14 Medical Board of California promulgated under this chapter.

15 “(b) A physician assistant acts as an agent of the supervising physician when  
16 performing any activity authorized by this chapter or regulations adopted under this chapter.”

17 7. Section 3502 of the Code states in pertinent part:

18 “(a) Notwithstanding any other provision of law, a physician assistant may perform  
19 those medical services as set forth by the regulations adopted under this chapter when the services  
20 are rendered under the supervision of a licensed physician and surgeon who is not subject to a  
21 disciplinary condition imposed by the Medical Board of California prohibiting that supervision or  
22 prohibiting the employment of a physician assistant.

23 “...

24 “The supervising physician and surgeon shall be physically available to the physician  
25 assistant for consultation when such assistance is rendered. ...

26 “(c)(1) A physician assistant and his or her supervising physician and surgeon shall  
27 establish written guidelines for the adequate supervision of the physician assistant. This  
28 requirement may be satisfied by the supervising physician and surgeon adopting protocols for



1 some or all of the tasks performed by the physician assistant. The protocols adopted pursuant to  
2 this subdivision shall comply with the following requirements:

3 “(A) A protocol governing diagnosis and management shall, at a minimum, include  
4 the presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or  
5 assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and  
6 education to be provided to the patient.

7 “(B) A protocol governing procedures shall set forth the information to be provided  
8 to the patient, the nature of the consent to be obtained from the patient, the preparation and  
9 technique of the procedure, and the follow up care.

10 “(C) Protocols shall be developed by the supervising physician and surgeon or  
11 adopted from, or referenced to, texts or other sources.

12 “(D) Protocols shall be signed and dated by the supervising physician and surgeon  
13 and the physician assistant.

14 “(2)(A)(i) The supervising physician and surgeon shall review, countersign, and date a  
15 sample consisting of, at a minimum, 5 percent of the medical records of patients treated by the  
16 physician assistant functioning under the protocols within 30 days of the date of treatment by the  
17 physician assistant.

18 “(B) . . . The supervising physician and surgeon shall select for review those cases that by  
19 diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant  
20 risk to the patient.

21 “(3) Notwithstanding any other provision of law, the Medical Board of California or  
22 board may establish other alternative mechanisms for the adequate supervision of the physician  
23 assistant.

24 “...”

25 8. Section 3502.1 of the Code states in pertinent part:

26 “(a) In addition to the services authorized in the regulations adopted by the Medical  
27 Board of California, and except as prohibited by Section 3502, while under the supervision of a  
28 licensed physician and surgeon or physicians and surgeons authorized by law to supervise a

1 physician assistant, a physician assistant may administer or provide medication to a patient, or  
2 transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may  
3 lawfully furnish the medication or medical device pursuant to subdivisions (c) and (d).

4       “(1) A supervising physician and surgeon who delegates authority to issue a drug  
5 order to a physician assistant may limit this authority by specifying the manner in which the  
6 physician assistant may issue delegated prescriptions.

7       “(2) Each supervising physician and surgeon who delegates the authority to issue a  
8 drug order to a physician assistant shall first prepare and adopt, or adopt, a written, practice  
9 specific, formulary and protocols that specify all criteria for the use of a particular drug or device,  
10 and any contraindications for the selection. Protocols for Schedule II controlled substances shall  
11 address the diagnosis of illness, injury, or condition for which the Schedule II controlled  
12 substance is being administered, provided, or issued. The drugs listed in the protocols shall  
13 constitute the formulary and shall include only drugs that are appropriate for use in the type of  
14 practice engaged in by the supervising physician and surgeon. When issuing a drug order, the  
15 physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

16       “(b) ‘Drug order,’ for purposes of this section, means an order for medication that is  
17 dispensed to or for a patient, issued and signed by a physician assistant acting as an individual  
18 practitioner within the meaning of Section 1306.02 of Title 21 of the Code of Federal  
19 Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this  
20 section shall be treated in the same manner as a prescription or order of the supervising physician,  
21 (2) all references to ‘prescription’ in this code and the Health and Safety Code shall include drug  
22 orders issued by physician assistants pursuant to authority granted by their supervising physicians  
23 and surgeons, and (3) the signature of a physician assistant on a drug order shall be deemed to be  
24 the signature of a prescriber for purposes of this code and the Health and Safety Code.

25       “(c) A drug order for any patient cared for by the physician assistant that is issued by  
26 the physician assistant shall either be based on the protocols described in subdivision (a) or shall  
27 be approved by the supervising physician and surgeon before it is filled or carried out.  
28

1           “(1) A physician assistant shall not administer or provide a drug or issue a drug order  
2 for a drug other than for a drug listed in the formulary without advance approval from a  
3 supervising physician and surgeon for the particular patient. At the direction and under the  
4 supervision of a physician and surgeon, a physician assistant may hand to a patient of the  
5 supervising physician and surgeon a properly labeled prescription drug prepackaged by a  
6 physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

7           “(2) A physician assistant shall not administer, provide, or issue a drug order to a  
8 patient for Schedule II through Schedule V controlled substances without advance approval by a  
9 supervising physician and surgeon for that particular patient unless the physician assistant has  
10 completed an education course that covers controlled substances and that meets standards,  
11 including pharmacological content, approved by the board. The education course shall be  
12 provided either by an accredited continuing education provider or by an approved physician  
13 assistant training program. If the physician assistant will administer, provide, or issue a drug  
14 order for Schedule II controlled substances, the course shall contain a minimum of three hours  
15 exclusively on Schedule II controlled substances. Completion of the requirements set forth in this  
16 paragraph shall be verified and documented in the manner established by the board prior to the  
17 physician assistant’s use of a registration number issued by the United States Drug Enforcement  
18 Administration to the physician assistant to administer, provide, or issue a drug order to a patient  
19 for a controlled substance without advance approval by a supervising physician and surgeon for  
20 that particular patient.

21           “(3) Any drug order issued by a physician assistant shall be subject to a reasonable  
22 quantitative limitation consistent with customary medical practice in the supervising physician  
23 and surgeon’s practice.

24           “(d) A written drug order issued pursuant to subdivision (a), except a written drug  
25 order in a patient’s medical record in a health facility or medical practice, shall contain the printed  
26 name, address, and telephone number of the supervising physician and surgeon, the printed or  
27 stamped name and license number of the physician assistant, and the signature of the physician  
28 assistant. Further, a written drug order for a controlled substance, except a written drug order in a

1 patient's medical record in a health facility or a medical practice, shall include the federal  
2 controlled substances registration number of the physician assistant and shall otherwise comply  
3 with the provisions of Section 11162.1 of the Health and Safety Code. Except as otherwise  
4 required for written drug orders for controlled substances under Section 11162.1 of the Health and  
5 Safety Code, the requirements of this subdivision may be met through stamping or otherwise  
6 imprinting on the supervising physician and surgeon's prescription blank to show the name,  
7 license number, and if applicable, the federal controlled substances registration number of the  
8 physician assistant, and shall be signed by the physician assistant. When using a drug order, the  
9 physician assistant is acting on behalf of and as the agent of a supervising physician and surgeon.

10           “(e)(1) The medical record of any patient cared for by a physician assistant for whom  
11 the physician assistant's Schedule II drug order has been issued or carried out shall be reviewed  
12 and countersigned and dated by a supervising physician and surgeon within seven days.

13           ...”

14           9. California Code of Regulations, title 16, section 1399.540, states in pertinent part:

15           “(a) A physician assistant may only provide those medical services which he or she is  
16 competent to perform and which are consistent with the physician assistant's education, training,  
17 and experience, and which are delegated in writing by a supervising physician who is responsible  
18 for the patients cared for by that physician assistant.

19           “(b) The writing which delegates the medical services shall be known as a delegation  
20 of services agreement. A delegation of services agreement shall be signed and dated by the  
21 physician assistant and each supervising physician. A delegation of services agreement may be  
22 signed by more than one supervising physician only if the same medical services have been  
23 delegated by each supervising physician. A physician assistant may provide medical services  
24 pursuant to more than one delegation of services agreement.

25           “(c) The board or Medical Board of California or their representative may require  
26 proof or demonstration of competence from any physician assistant for any tasks, procedures or  
27 management he or she is performing.

1           “(d) A physician assistant shall consult with a physician regarding any task,  
2 procedure or diagnostic problem which the physician assistant determines exceeds his or her level  
3 of competence or shall refer such cases to a physician.”

4           10. California Code of Regulations, title 16, section 1399.541, states:

5           “Because physician assistant practice is directed by a supervising physician, and a  
6 physician assistant acts as an agent for that physician, the orders given and tasks performed by a  
7 physician assistant shall be considered the same as if they had been given and performed by the  
8 supervising physician. Unless otherwise specified in these regulations or in the delegation or  
9 protocols, these orders may be initiated without the prior patient specific order of the supervising  
10 physician.

11           “In any setting, including for example, any licensed health facility, out-patient  
12 settings, patients’ residences, residential facilities, and hospices, as applicable, a physician  
13 assistant may, pursuant to a delegation and protocols where present:

14           “(a) Take a patient history; perform a physical examination and make an assessment  
15 and diagnosis therefrom; initiate, review and revise treatment and therapy plans including plans  
16 for those services described in Section 1399.541(b) through Section 1399.541(i) inclusive; and  
17 record and present pertinent data in a manner meaningful to the physician.

18           “(b) Order or transmit an order for x-ray, other studies, therapeutic diets, physical  
19 therapy, occupational therapy, respiratory therapy, and nursing services.

20           “(c) Order, transmit an order for, perform, or assist in the performance of laboratory  
21 procedures, screening procedures and therapeutic procedures.

22           “(d) Recognize and evaluate situations which call for immediate attention of a  
23 physician and institute, when necessary, treatment procedures essential for the life of the patient.

24           “(e) Instruct and counsel patients regarding matters pertaining to their physical and  
25 mental health. Counseling may include topics such as medications, diets, social habits, family  
26 planning, normal growth and development, aging, and understanding of and long-term  
27 management of their diseases.

1           “(f) Initiate arrangements for admissions, complete forms and charts pertinent to the  
2 patient’s medical record, and provide services to patients requiring continuing care, including  
3 patients at home.

4           “(g) Initiate and facilitate the referral of patients to the appropriate health facilities,  
5 agencies, and resources of the community.

6           “(h) Administer or provide medication to a patient, or issue or transmit drug orders  
7 orally or in writing in accordance with the provisions of subdivisions (a)-(f), inclusive, of Section  
8 3502.1 of the Code.

9           “...

10           “(2) A physician assistant may also act as first or second assistant in surgery under  
11 the supervision of a supervising physician. The physician assistant may so act without the  
12 personal presence of the supervising physician if the supervising physician is immediately  
13 available to the physician assistant. “Immediately available” means the physician is physically  
14 accessible and able to return to the patient, without any delay, upon the request of the physician  
15 assistant to address any situation requiring the supervising physician’s services.”

16           11. California Code of Regulations, title 16, section 1399.545, states:

17           “(a) A supervising physician shall be available in person or by electronic  
18 communication at all times when the physician assistant is caring for patients.

19           “(b) A supervising physician shall delegate to a physician assistant only those tasks  
20 and procedures consistent with the supervising physician’s specialty or usual and customary  
21 practice and with the patient's health and condition.

22           “(c) A supervising physician shall observe or review evidence of the physician  
23 assistant’s performance of all tasks and procedures to be delegated to the physician assistant until  
24 assured of competency.

25           “(d) The physician assistant and the supervising physician shall establish in writing  
26 transport and back-up procedures for the immediate care of patients who are in need of emergency  
27 care beyond the physician assistant’s scope of practice for such times when a supervising  
28 physician is not on the premises.

1           “(e) A physician assistant and his or her supervising physician shall establish in  
2 writing guidelines for the adequate supervision of the physician assistant which shall include one  
3 or more of the following mechanisms:

4           “(1) Examination of the patient by a supervising physician the same day as care is  
5 given by the physician assistant;

6           “(2) Countersignature and dating of all medical records written by the physician  
7 assistant within thirty (30) days that the care was given by the physician assistant;

8           “(3) The supervising physician may adopt protocols to govern the performance of a  
9 physician assistant for some or all tasks. The minimum content for a protocol governing  
10 diagnosis and management as referred to in this section shall include the presence or absence of  
11 symptoms, signs, and other data necessary to establish a diagnosis or assessment, any appropriate  
12 tests or studies to order, drugs to recommend to the patient, and education to be given the patient.  
13 For protocols governing procedures, the protocol shall state the information to be given the  
14 patient, the nature of the consent to be obtained from the patient, the preparation and technique of  
15 the procedure, and the follow-up care. Protocols shall be developed by the physician, adopted  
16 from, or referenced to, texts or other sources. Protocols shall be signed and dated by the  
17 supervising physician and the physician assistant. The supervising physician shall review,  
18 countersign, and date a minimum of 5% sample of medical records of patients treated by the  
19 physician assistant functioning under these protocols within thirty (30) days. The physician shall  
20 select for review those cases which by diagnosis, problem, treatment or procedure represent, in his  
21 or her judgment, the most significant risk to the patient;

22           “(4) Other mechanisms approved in advance by the board.

23           “(f) The supervising physician has continuing responsibility to follow the progress of  
24 the patient and to make sure that the physician assistant does not function autonomously. The  
25 supervising physician shall be responsible for all medical services provided by a physician  
26 assistant under his or her supervision.”

27           ///

28           ///

## BACKGROUND

12. During the relevant time period, Respondent was a board certified general surgeon. In January of 2013, Bernard Williams (Mr. Williams), a physician assistant<sup>1</sup>, contacted Respondent and asked if he would act as his supervising physician. Respondent and Mr. Williams had previously worked together at a county hospital many years earlier. Mr. Williams told Respondent that he had been providing medical care to detox patients at a drug rehabilitation center ("Drug Rehab") under the former supervision of a physician, who had recently left Drug Rehab. Mr. Williams wanted to continue providing care to detox patients at Drug Rehab but needed to have a supervising physician. Although Respondent had never been trained in addiction medicine or been board certified in addiction medicine and was no longer treating patients in his current practice, he agreed to act as a supervising physician and supervise Mr. Williams' care of detox patients at Drug Rehab.

13. On or about March 13, 2013, Respondent began "supervising" Mr. Williams. Respondent and Mr. Williams did not have a delegation of services agreement nor did they establish any written guidelines for the adequate supervision of a physician assistant. Respondent and Mr. Williams did not establish protocols for any of the tasks to be performed by Mr. Williams. Respondent and Mr. Williams did not have any written protocols governing the diagnosis and management of patients. Additionally, although Respondent knew that Mr. Williams was writing controlled substance prescriptions, Respondent and Mr. Williams did not have a written controlled substance prescribing protocol or formulary.

14. As part of Respondent's arrangement with Mr. Williams, Respondent allowed Mr. Williams to independently examine, evaluate, and diagnose patients at Drug Rehab. Respondent was not present for these visits and did not examine the patients himself. Mr. Williams saw over four hundred (400) patients while under the supervision of Respondent. Respondent did not

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<sup>1</sup> On January 21, 2017, the California Physician Assistant Board filed Accusation No. 950-2014-000286 against Bernard Williams for unprofessional conduct and/or gross negligence, unlicensed practice of medicine, prescribing controlled substances without adequate supervision, dishonesty, procuring substances by fraud, unlawfully representing himself as a physician, and for creating false medical records.



1 question any of Mr. Williams' decisions and deferred to him in terms of the care that was  
2 provided to the detox patients.

3 15. For the first three months of the supervision, Respondent visited Drug Rehab about  
4 once a week to meet with Mr. Williams. Most of the time was spent "settling accounts" between  
5 Respondent and Mr. Williams as they had agreed to share fees. After the first few months,  
6 Respondent reduced his visits and only visited Drug Rehab about once a month. As part of his  
7 supervision, Respondent rarely reviewed any of the detox patients' medical charts. Respondent  
8 only reviewed a few select charts when he was at Drug Rehab for his weekly or monthly meetings  
9 with Mr. Williams.

10 16. Respondent also permitted Mr. Williams to establish detox protocols and treatment  
11 plans for the detox patients and to prescribe controlled substances to the patients. In fact,  
12 Respondent renewed his DEA license for the sole purpose of allowing Mr. Williams to continue  
13 prescribing controlled substances to the detox patients. However, Respondent did not review any  
14 CURES reports with respect to the detox patients or take any other steps to monitor the controlled  
15 substances written by Mr. Williams.<sup>2</sup>

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18 ///

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22  
23 <sup>2</sup> The CURES is a program operated by the California Department of Justice (DOJ) to  
24 assist health care practitioners in their efforts to ensure appropriate prescribing of controlled  
25 substances, and law enforcement and regulatory agencies in their efforts to control diversion and  
26 abuse of controlled substances. (Health & Saf. Code, § 11165.) California law requires  
27 dispensing pharmacies to report to the DOJ the dispensing of Schedule II, III and IV controlled  
28 substances as soon as reasonably possible after the prescriptions are filled. (Health & Saf. Code,  
§ 11165, subd. (d).) The history of controlled substances dispensed to a specific patient based on  
the data contained in the CURES is available to a health care practitioner who is treating that  
patient. (Health & Saf. Code, § 11165.1, subd. (a).)

1 **CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct/Failure to Appropriately Supervise Physician Assistant/Gross**  
3 **Negligence/Repeated Negligent Acts)**

4 **Patient D.G.<sup>3</sup>**

5 17. Between January 2014 and June 2014, Mr. Williams wrote prescriptions for  
6 controlled substances, including Norco<sup>4</sup>, Lorazepam<sup>5</sup>, Ambien<sup>6</sup>, Temazepam (Restoril)<sup>7</sup> to Patient  
7 D.G. In the process of issuing these prescriptions, Mr. Williams falsely signed Respondent's  
8 name on the prescription slips. Respondent did not discuss these prescriptions with Mr. Williams  
9 or give his approval to him prior to Mr. Williams writing these prescriptions. D.G.'s medical  
10 records do not contain any documentation regarding a discussion between Respondent and Mr.  
11 Williams regarding Patient D.G.'s prescriptions or any other aspects of the "care" provided by Mr.  
12 Williams. Additionally, Respondent failed to countersign the medical records within seven (7)  
13 days for the Schedule II drugs that were prescribed to Patient D.G.

14 **Patient N.W.**

15 18. Between August 2013 and November 2013, Mr. Williams wrote prescriptions for  
16 controlled substances, including Norco and Lorazepam to Patient N.W. In the process of issuing  
17 the prescriptions, Mr. Williams falsely signed the name of Respondent on the prescription slips,  
18 without Respondent's knowledge or authority. Respondent and Mr. Williams did not have any  
19 controlled substance protocols in place. Respondent did not discuss these prescriptions with Mr.  
20 Williams or give his approval prior to Mr. Williams writing these prescriptions. N.W.'s medical

21 <sup>3</sup> The patients will be identified by their initials to protect their identity and privacy. The  
22 Respondent may learn the patients' information through the discovery process.

23 <sup>4</sup> Norco is a dangerous drug as defined in section 4022 and a schedule II controlled  
24 substance.

25 <sup>5</sup> Lorazepam is a dangerous drug as defined in section 4022 and a schedule IV controlled  
26 substance.

27 <sup>6</sup> Ambien is a dangerous drug as defined in section 4022 and a schedule IV controlled  
28 substance.

<sup>7</sup> Temazepam is a dangerous drug as defined in section 4022 and a schedule IV controlled  
substance.

1 records do not contain any documentation regarding a discussion between Respondent and Mr.  
2 Williams regarding any aspects of the "care" provided by Mr. Williams. Additionally,  
3 Respondent failed to countersign the medical records within seven (7) days for the Schedule II  
4 drugs that were prescribed to Patient N.W.

5 **Patient F.P.**

6 19. Between October 2013 and November 4, 2013, Mr. Williams wrote prescriptions for  
7 controlled substances, including Norco, Lorazepam, and Halcion (Triazolam).<sup>8</sup>  
8 In the process of issuing the prescriptions, Mr. Williams falsely signed the name of Respondent  
9 on the prescription slips, without Respondent's knowledge or authority. Respondent and Mr.  
10 Williams did not have any controlled substance protocols in place. Respondent did not discuss  
11 these prescriptions with Mr. Williams or give his approval prior to Mr. Williams writing the  
12 prescriptions. F.P.'s medical records do not contain any documentation regarding a discussion  
13 between Respondent and Mr. Williams regarding any aspects of the "care" provided by Mr.  
14 Williams. Additionally, Respondent failed to countersign the medical records within seven (7)  
15 days for the Schedule II drugs that were prescribed to Patient F.P.

16 **Patient T.H**

17 20. In June 2014, Mr. Williams wrote prescriptions for controlled substances, including  
18 Lorazepam, Ambien, Halcion (Triazolam), and Buprenorphine<sup>9</sup> to Patient T.H. In the process of  
19 issuing the prescriptions, Mr. Williams falsely signed the name of Respondent on the prescription  
20 slips, without Respondent's knowledge or authority. Respondent and Mr. Williams did not have  
21 any controlled substance protocols in place. Respondent did not discuss these prescriptions with  
22 Mr. Williams or give his approval prior to Mr. Williams writing the prescriptions. T.H.'s medical  
23 records do not contain any documentation regarding a discussion between Respondent and Mr.  
24 Williams regarding Patient T.H.'s prescriptions or any other aspects of the "care" provided by Mr.

25 <sup>8</sup> Triazolam is a dangerous drug as defined in section 4022 and a Schedule IV controlled  
26 substance.

27 <sup>9</sup> Buprenorphine is a dangerous drug as defined in section 4022 and a Schedule IV  
28 controlled substance.

1 Williams.

2 **Patient T.F.**

3 21. Between August 2013 and May 2014, Mr. Williams wrote prescriptions for controlled  
4 substances, including Norco, Lorazepam, Clonazepam<sup>10</sup>, Halcion (Triazolam), and Valium<sup>11</sup> to  
5 Patient T.F. In the process of issuing the prescriptions, Mr. Williams falsely signed the name of  
6 Respondent on the prescription slips, without Respondent's knowledge or authority. Respondent  
7 and Mr. Williams did not have any controlled substance protocols in place. Respondent did not  
8 discuss these prescriptions with Mr. Williams or give his approval prior to Mr. Williams writing  
9 the prescriptions. T.F.'s medical records do not contain any documentation regarding a  
10 discussion between Respondent and Mr. Williams regarding any aspects of the "care" provided by  
11 Mr. Williams. Additionally, Respondent failed to countersign the medical records within seven  
12 (7) days for the Schedule II drugs that were prescribed to Patient T.F.

13 **Patient J.W.**

14 22. In June 2014, Mr. Williams wrote prescriptions for controlled substances, including  
15 Norco, Lorazepam, and Valium to Patient J.W. In the process of issuing the prescriptions, Mr.  
16 Williams falsely signed the name of Respondent on the prescription slips, without Respondent's  
17 knowledge or authority. Respondent and Mr. Williams did not have any controlled substance  
18 protocols in place. Respondent did not discuss these prescriptions with Mr. Williams or give his  
19 approval prior to Mr. Williams writing the prescriptions. J.W.'s medical records do not contain  
20 any documentation regarding a discussion between Respondent and Mr. Williams regarding any  
21 aspects of the "care" provided by Mr. Williams. Additionally, Respondent failed to countersign  
22 the medical records within seven (7) days for the Schedule II drugs that were prescribed to Patient  
23 J.W.

24  
25 <sup>10</sup> Clonazepam is a dangerous drug as defined in section 4022 and a Schedule IV  
26 controlled substance.

27 <sup>11</sup> Valium is a dangerous drug as defined in section 4022 and a Schedule IV controlled  
28 substance.

23. Respondent is guilty of unprofessional conduct and/or gross negligence and/or repeated negligent acts, and/or incompetence in that he failed to appropriately supervise Mr. Williams' care and treatment of Patients D.G., N.W., F.P., T.H., T.F., and J.W. and because he allowed Mr. Williams to treat patients, including prescribing dangerous drugs and controlled substances without any meaningful supervision or oversight. Respondent purported to supervise Mr. Williams without adhering to the statutory and regulatory requirements pertaining to the supervision of physician assistants. Additionally, Respondent lacked the relevant knowledge, skills, or experience to appropriately supervise Mr. Williams. Accordingly, Respondent is subject to disciplinary action under Code Sections 2234, 2234 (a), (b), and (c); 3501, 3502, 3502.1 and California Code of Regulations Sections 1399.541 and 1399.545.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number G 17389, issued to Phillip Gilmore Wright, M.D.;

2. Revoking, suspending or denying approval of Phillip Gilmore Wright, M.D.'s authority to supervise physician assistants and advanced practice nurses, pursuant to section 3527 of the Code;

3. Ordering Phillip Gilmore Wright, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

4. Taking such other and further action as deemed necessary and proper.

DATED: April 10, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant